IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION ST. NO.6 OF 2007
IN
WRIT PETITION NO.2555 OF 2005

Vijay Infrastructure Technologies Pvt.Ltd..Petitioner

Vs.

State of Maharashtara & Ors.....Respondents

Mr. N.H. Seervai, Senior Counsel with Mr. F. Pooniwala i/b. Little & Co., for the Petitioner
Mr. Niranjan Pandit, AGP for Respondent Nos. 1 to 3.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATED : 6TH AUGUST, 2007

P.C.

. Learned Counsel on behalf of the Review Applicant first submitted that the reading of the clause in the Agreement it would be clear that the possession was not handed over and, therefore, the Agreement would not fall under Article 25(b) of Schedule I of the Bombay Stamp Act. After considering the various clauses of the Agreement we had recorded a finding that in fact the clauses in the Agreement would itself indicate that the Review Applicants were in possession. That is purely a finding of fact and considering that a Review Petition on that count cannot be matained.

2. It is next contended that the Review Applicant wrongly made a statement that Article 5(ga) of Schedule I was introduced from 15th September, 1996. It is pointed out

that it was clearly an error, as in fact the amendment was deemed to have come into effect from 7th February, 1990. The Agreement was entered into on 27th June, 1996. It is submitted that this Court proceeded only on the basis that Article 25(b) of Schedule I and the alternative contention that Article 5(h) were the only provisions that required to be considered.

. It is submitted that had it been brought to the attention of the Court that Article 5(ga) (1) was attracted then the Court would have considered the contention as to whether Article 5(ga) (1) and/or Article 25(b) was attracted. Article 5(ga) (1) deals with development agreement. In so far as this Court is concerned, after considering the contentions in para.5 of the order we have recorded a finding that the Agreement in fact is an Agreement for sale. In our opinion, therefore, considering the findings recorded by this Court the contention as urged could not be entertained.

. Considering the above Review Application dismissed.

(ANOOP V. MOHTA, J.) (**F.I.REBELLO, J)**